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Nantucket Lands and Land Owners

V. 2, no. 1

.....BY.....

HENRY BARNARD WORTH.

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INTRODUCTION.

This work will comprise a series of chapters which will treat in topical form the history of Nantucket as found in the public records. Fortunately the recorded transactions of the first settlers have been well preserved, the only book that is missing being that which Peter Folger was accused of concealing. In Books 1, 2 and 3 in the Registry of Deeds are contained records of deeds, court proceedings, set-offs of land, elections, and settlements of estates of deceased persons. As soon as the different departments of public service became distinct from the Land Office, these records were kept in separate books. The records of the town were begun in 1699; the probate records in 1706; the proprietors in 1716, and the court in 1720; and after these dates the records of these departments were kept in separate books. The historical matter found in these three books is the basis of this work. Material has also been obtained from the State House in Albany and Boston and the Registry of Deeds in Edgartown.

The plan adopted at first was to insert copies of all documents, but as these would be of value to only a few and as they are being printed, it was decided to give the substance only and file the copies in the rooms of the Historical Association at Nantucket.

From 1660 to 1692 Nantucket was a part of New York colony, and all public documents were recorded in New York city, and in 1795 transferred to the new capital at Albany. These papers are being printed by the State Historian, the last volume including the year 1675.

After 1692 all such papers were sent to Boston. The State of Massachusetts has taken no steps toward the publication of the early documents.

There has never been any History of Nantucket based on its records. Macy's History was written in 1835, and it is clear that he was ignorant of the rich mass of historical data within his reach at Nantucket and Edgartown. He stated that "greatly to his mortification, there is very little on record and few documents relating to much of the time embraced within the limits of this book," and that the early settlers "were so illiterate that the little of their writings that have come down to us is hardly legible or intelligible." Thus he dismissed the records because he could not read them, although they were as easy to read as Gov. Winthrop's Diary or William Bradford's History of Plymouth, when the system of penmanship is understood.

It is proposed to print chapters of this work as fast as expedient, in such form that they may be finally bound in one volume with an index. Three chapters are printed in this section. The next will be a history of the Nantucket Indians, which will describe the relations of the White and Red men, and the efforts of the latter to recover their lands. A chapter will be devoted to the early courts and an index of the cases that were decided. The first settlers and their families will be described and an attempt will be made to indicate in which part of the island they resided.

Obed Macy says "they did not require much formality in their government." This is far from the fact, and the early government will be shown.

The land tenure of Nantucket will be explained and the famous Sheep Commons.

Thus the substance of the early records will be made accessible.

HENRY B. WORTH.

New Bedford, Aug. 19, 1901.

CHAPTER I.

Securing the Title of the English King.

The historian states that Thomas Mayhew became the first Colonial purchaser of the islands south of Cape Cod in October of 1641; his deed, as will hereafter appear, was based upon a grant from the King of England.

At that time the occupants of these islands were tribes of North American Indians. Some arrangement had to be made with them by purchase before he could occupy their territory; thus at the outset he found two sources of title.

1. From the English government, that claimed these islands by right of discovery.
2. From the Indians, whose right was in possession.

The right by discovery, which was the foundation of the English claim, was based on the voyage of Cabot, who in 1497 sailed along the Atlantic coast from Florida to Labrador; but mere discovery carries no right unless the new territory is settled and occupied; if the nation claiming this right, after a reasonable time fails to take possession, the right lapses and any other nation has a right to settle the newly discovered land.

For some reason there was no activity in England in taking possession of the new world; over a century after Cabot's voyage England made no permanent settlement; other nations were taking advantage of the opportunity. Spain occupied Florida in 1525; a few years later France had established the colony of New France along the St.

Lawrence; and in 1607 Holland had a colony along the Hudson River. Something had to be done at once; men must be induced to procure homes across the Atlantic. In 1607, John Smith with a band of adventurers located at Jamestown, Va., and the same year Mason and Georges took possession of the country near the Kennebec River. But there was still no disposition to go to America in large numbers. It became necessary to make some arrangement that suitable numbers might be induced to form a colony in America. For this purpose the King created a corporation called "The Council for New England." It was established in Plymouth, in Devonshire, and was usually called the Plymouth Company. Its charter was dated November 23, 1621, and immediately the King granted to this company all territory in America not already settled between the parallels of 40 and 50 of north latitude. This grant included the islands south of Cape Cod.

The officers and agents of this company could now proceed to sell sections of the new country and could fit out vessels for transportation, and could more readily secure the formation of Colonial settlements than when the title was in the King. The charter for the Colony of Plymouth came from this company.

But instead of working satisfactorily, the Plymouth Company failed of success, and in 1635 Charles the First terminated its existence by dissolution. The last act of the corporation, taken at the King's request, was a grant to William, Earl of Sterling, of that portion of Maine lying east of the Kennebec River, and also Long Island and the islands adjacent. It is not clear whether this last phrase was intended to include Block Island alone or all the islands to the eastward; maps of that day gave only imperfect information, and no accurate idea of any locality could be obtained; but frequently the subsequent acts of

the parties explained the intention. Judged by this test, there is no doubt that the islands south of Cape Cod were included in this grant.

Lord Sterling appointed James Forrett as his agent for the purpose of selling and disposing of the islands between Cape Cod and the Hudson River. Forrett came to New York in April, 1637. His efforts were first directed to procuring purchasers for different sections of Long Island, and it was four years after his arrival before he found a customer for Marthas Vineyard and Nantucket.

It October, 1641, he conveyed all the islands south of Cape Cod to Thomas Mayhew of Watertown in Massachusetts Bay.

The deed of Nantucket and adjacent islands is dated October 13th, while that of Marthas Vineyard and Elizabeth Islands is dated ten days later.

This conveyance, however, granted only the right to use the surface of the land. This was because in those days no grants were made of rights under the surface, the King reserved to himself all mines.

Shortly after Mayhew had taken the Forrett deed he learned that Sir Ferdinand Georges, the Governor of Maine, claimed jurisdiction over these islands. This authority was contained in a commission from Charles the First, dated July 23, 1637, in which Georges was appointed Governor of Maine. The provision seems to have been intended merely as giving Georges the authority to settle controversies between colonists who might set up conflicting claims to land. It never could have meant that Georges had the right to sell, but when the formidable document was shown to Mayhew he became convinced that the authority claimed by Georges was well founded and concluded to recognize the same so far as to obtain a deed.

This deed does not mention Nantucket. Whether this

was an omission or intentional cannot be understood. There was never any deed of Nantucket from Georges.

Under the Forrett deed Mayhew was to pay an annual tax, to be determined by Governor Winthrop of Massachusetts Bay. In the second deed he agreed to pay an annual tax to Georges. This was the foundation of serious annoyance to Mayhew, which was not settled until the issuing of the Lovelace patents in 1671. The following is the authority of Georges :

* * * "It is our will and pleasure that none be permitted to go into any of those parts to plant or inhabit but that they acquaint our said Governor thereunto or such other as shall be deputed for that purpose during his abode here in England, and who are to receive from him or them allowance to pass with his or their further direction where to sit down most for their particular commodities and public gaol of our service.

"Hereby strictly charging and commanding all our officers and others to whom it shall or may appertain to take notice of this our pleasure and to be careful the same be firmly observed as they or any of them shall answer the same at their uttermost peril."

But in this situation Mayhew had a title not clear even to himself. He had agreed to pay taxes, therein called an acknowledgment, both to Stirling and Georges. The question was whether these islands belonged to New York or Maine. When Lovelace became Governor of New York, Mayhew exhibited his title deeds and the Governor "stumbled much."

Mayhew's deed to the first twenty purchasers was dated July 2, 1659, and after that the Nantucket owners seem to have repudiated the claim of Georges and paid their acknowledgment to the New York Governor.

In 1664 the English took New Netherlands and changed the name to New York. The English King made a grant of considerable territory in the New World to his brother, the Duke of York, in which were included "The several small islands called or known by the name of Nantukes or Nantucket."

The Duke of York then appointed Francis Lovelace Governor of New York and its dependencies. Lovelace reached New York in May, 1670, and at once set about investigating the claims of the different English colonists. Much controversy had arisen in different parts of Long Island over deeds given by Forrett, and it was also known that Georges had set up a claim to some parts of New England. It was consequently decided that the best method would be to notify the principal men of all New England settlements concerning which there was any question to produce their title deeds and prove their claims to the land which they occupied. Notice was issued that all persons claiming land on Nantucket appear before the Governor at New York within four months from May 16, 1670, and prove their titles. Although the notice was received by the Nantucket inhabitants, they seem to have paid no attention to it until May, 1671, when Tristram Coffin and Thomas Macy were appointed to act for the Nantucket owners. They proceeded to New York and their mission resulted in a new patent from Lovelace of both Nantucket and Tuckannuckett, dated June 28, 1671, confirming what had already been done by Forrett.

This conveyance was to Tristram Coffin and Thomas Macy as patentees for and on behalf of themselves and their associates, inhabitants of Nantucket. Under this Nantucket was created an enfranchised township, manor, and place, independent of every other town. The consideration was four barrels of merchantable codfish, to be delivered in New York annually. This conveyance ex-

pressly provided that only so much was granted as the inhabitants had purchased from the Indians. The order of procedure must be—

1. The English should purchase certain lands from the Indians.

2. Then the English crown would ratify and confirm the purchases.

The town was named Sherburne.

Thus were the rights of the Indians protected by the representative of the English government.

With the Lovelace patent came instructions as to courts both for the English and the Indians. They will be important in the controversy that took place a few years later between half-share and whole-share men, called the Insurrection.

In July, 1673, the Dutch took possession of New York and held it until October, 1674, when it was surrendered to the English.

The King was advised that the Dutch capture of New York divested the title from the Duke of York, and that a new grant would be necessary. This was made in July, 1674.

After the surrender of New York to the English, Nantucket became a part of that province. For some reason it was considered desirable to obtain a new patent; probably this was thought necessary as the Nantucket land owners desired to have confirmed purchases which they had made from the Indians after the date of the Lovelace patent.

Then followed the Dongan patent of 1684. In this patent appears what was the policy of England in those days, to except from the grant royal mines, drift whales and wrecks. It granted only the territory of which they had made purchase from the Indians.

When John Swain in August, 1686, had bought out

all of the Indian claim to Quaise Point, he had to obtain a grant of confirmation. He had to pay annually one bushel of wheat.

On account of the inconvenience of obtaining a confirmation of purchases made from the Indians, it was concluded best to obtain a general grant of the entire island, which was the Dongan patent, dated June 27, 1687. This patent is very elaborate and lengthy, and as it can be found at the Registry of Deeds at Nantucket and in the Genealogy of the Macy family, it is omitted from this book.

It established John Gardner, James Coffin, William Gayer, Peter Coffin, Nathaniel Barnard, Stephen Hussey and John Macy a body corporate called the Trustees of the Freeholders of the Town of Sherburne. This corporation was granted liberty to purchase land from the Indian proprietors and confirm unto all persons having land on the island their title thereto. The annual tax was one lamb or two shillings, to be paid March 20 at New York. This corporation is the modern proprietary that has had a continued existence ever since that date.

An act of Parliament in 1692 transferred all the islands which Thomas Mayhew purchased in 1641 to the province of Massachusetts Province.

This transfer was objected to by the Mayhews, but the Nantucket inhabitants seem to have favored it.

Matthew Mayhew with his sheriff visited Nantucket and threatened dire calamities on the Nantucket inhabitants, and particularly on Captain John Gardner, on account of the transfer. But when Matthew Mayhew went to New York in August he received little satisfaction, for the New York Governor could not abrogate an act of Parliament.

The General Court of the Province of Massachusetts, May 31, 1693, enacted a law confirming all titles on Nan-

tucket that were based on grants from the Governors of New York Colony.

Thus it required over half a century to settle and establish the titles from the English crown.

Dongan's 1687 patent is the basis of all titles on Nantucket. It is the only original Document from an English Governor that has been preserved and is in the Registry of Deeds at Nantucket.

CHAPTER II.

The Nantucket Insurrection.

This title is given by the Historian of the State of New York to a controversy that took place among the inhabitants of Nantucket between 1673 and 1680. The two factions were nearly equal. One was under the leadership of Tristram Coffin and the other of Captain John Gardner. On account of intermarriage between the early settlers the hostility was substantially between the Coffin and Gardner families. The animosity that was the origin of the strife cannot be determined, but unquestionably the source lay in the temperaments of the two leaders.

Tristram Coffin exhibited great enterprise in gathering together the company of settlers, and his family of five sons and two daughters, with their husbands and wives, formed a considerable part of the first twenty purchasers. He was naturally a leader, and during the first ten years of the island's history was prominent in affairs. It cannot be said that he was popular. He governed by force rather than by persuasion. About the year 1672 he showed irritability of temper by objecting to the voice of the majority and dissenting therefrom, and not satisfied with this dissent, he required that it be entered on the record, "Mr. Coffin enters his dissent." He preferred to rule rather than serve, and when Captain John Gardner was gaining in popularity it was a source of consternation to the old Puritan, and in his efforts to retain control of the government he resorted to extreme and revengeful measures.

Captain John Gardner was a mariner and lived in Salem, Massachusetts Bay. His brother Richard was in Nantucket in 1665 and was given a house lot. In 1672 the inhabitants invited Captain Gardner to settle on the island "to set up the trade of fishing for the taking of codfish." and that he should stay on the island at least three years. For this he was granted half a share of land. Then he purchased the half share of Nathaniel Holland on which the latter had built a house.

If this was the house in which Gardner afterwards lived, it was located at North shore near the house of the late Charles O'Connor.

Richard Gardner came to Nantucket in 1665 as a seaman and became a landowner. In 1673 a grant of irregular shape was made to him comprising the land surrounding the Lily Pond, then called Wesco Pond. His house was on Sunset Hill, just west from the Coffin house.

Peter Folger was the son of John Folger, and came to this country with Rev. Hugh Peters and afterward married Mary Morrill, a servant in Peters' family. Peter Folger settled at Marthas Vineyard and became very proficient in the Indian language and also learned the arts of miller and blacksmith. When Thomas Mayhew transferred Nantucket to the first twenty inhabitants, it was arranged that Peter Folger should accompany them and assist in managing the Indians. A half share of land was granted him providing he would assist the inhabitants as interpreter, miller and blacksmith. His son Eleazer was given a half share of land providing he would pursue the industries of blacksmith and shoemaker. Folger's mother having died about 1663, he sold his lands at Marthas Vineyard and removed to Nantucket.

Peter Folger was a surveyor and a preacher. His grandson, Benjamin Franklin, thought that Folger came from Holland.

The natural abilities of the Gardner brothers and Peter Folger and their acquirements very soon enabled them to become persons of great importance. It was true they were tradesmen and possessed only one half as great a share of land as the first twenty purchasers, yet there was great demand for the service which they could render. In managing the Indians Peter Folger seems to have been without an equal. John Gardner, also, was held in high esteem among them, and as long as he and Folger were able to advise the Englishmen there was no conflict. Richard Gardner appears to have been a man of considerable education and was many times Chief Magistrate and Assistant.

The Gardner brothers and Folger had qualities that made them popular. Captain John had evidently not received much school education, but he seems to have been a man of physical courage and rugged honesty that gained for him public confidence. After the death of Peter Folger he was the protector of the Indians. During the thirty years of his residence at Nantucket for only a few years was he out of office. He was Chief Magistrate, Selectman, Treasurer, and Deputy to New York. Twice travelling Quaker preachers visited Nantucket, once in 1680 and again in 1704. He forcibly objected to the new sect and protested against their establishment on the island.

These three men seemed to affiliate naturally, being of democratic views, while Tristram Coffin was inclined to be despotic.

Under such circumstances it was inevitable that men of strong personality like Tristram Coffin and John Gardner should ultimately come in conflict. Coffin would not tamely submit to the increase of popularity of John Gardner, and it was not likely that Gardner would retire in order that Coffin might retain the power and authority that were first accorded to him.

It was an annoyance to Coffin to see the favor shown to Captain Gardner. The town granted him twenty acres from his house toward the cliff and widened the road that passed by his warehouse to the landing place. Under the new system of courts the people elected two men, one of whom the Governor of New York appointed Chief Magistrate. The first election took place in the spring of 1673 and Richard Gardner and Edward Starbuck were elected. The Governor selected the former and at the same time appointed John Gardner chief military officer.

The Gardners decided to engage in the fishing business and for some reason concluded to procure a license from the Colonial Governor. They were authorized to conduct the fishing business and to buy land on the shore from the Indians. In the same letter came the commissions of Richard Gardner as Chief Magistrate and John Gardner as Captain of the Foot Company then within the islands of Nantucket and Tuckannuckett. This was in April, 1673.

In July, 1673, the Dutch captured New York, and for several months matters of government were in confusion. In October, 1674, New York was surrendered to the English.

The following transactions at meetings of the inhabitants are copied from the records :

March 8, 1674-75.

The town did vote that the letter drawn up to be sent to the Governour of New York, shall be forthwith sent.

To this vote

John Swayn enters his decent.

Mr. Tristram Coffin enters his decent.

Nathaniel Barnard enters his decent.

John Coffin enters his decent.

Richard Swayne enters his decent.

Steven Coffin enters his decent.

March 13, 74-75.

The town did vote that Peter ffoulger should go to New York with Captine Garnder to assist him in any business that he is sent about by the Town, to the Governour.

To this vote of the town

John Swayn enters his decent.

Mr. Tristram Coffin enters his decent.

Steven Coffin enters his decent.

Nathaniel Barnard enters his decent.

Richard Swayn enters his decent.

John Coffin enters his decent.

August 4, 1674.

The Town did vote to send a man to the Governour of new-York with the next Covenant season, to petition the Governour about what may Infring the Libertys of the Chartar.

Capt. John Gardner is Choson by the Town to go new-Yorke about the aforesayd busines.

Mr. Tristram Coffin enters his decent.

John Swayn enters his descent.

Nathaniel Starbuck enters his decent.

Richard Swayn enters his decent.

John Coffin enters his decent.

Nathaniel Barnard enters his decent.

Steven Coffin enters his decent.

Nathaniel Wier enters his decent.

The above were the first indications of the conflict. The attack of the Coffin party was against John Gardner. Apparently Coffin was afraid that Gardner might secure some advantage while the government was in the disturbed condition at New York.

The Lovelace patent was dated in June, 1671, and ran to Gardner and Coffin and their associates.

The Gardner party asserted that all men who owned land on Nantucket were to be considered equal in ownership, and that in deliberations and votes all men should have the same voice whether their ownership were small or large and that a man who owned a whole share should have no larger vote than one who owned less. This was in direct antagonism to the view held by the Coffin party. They claimed that the landowner who owned one share should have two votes while a man owning half a share should have but one, and that votes should depend upon the amount of ownership.

Owing to the way in which the land-owners or freeholders were divided, the adherents of the Gardner view were slightly in majority. As near as can be ascertained the following lists indicate substantially the followers of both parties :

Gardner Party.

John Gardner,
Richard Gardner,
Peter Folger,
Edward Starbuck,
Thomas Macy,
William Worth,
William Bunker,
Thomas Coleman,
Joseph Coleman,
Joseph Gardner,
Samuel Streeter,
John Rolf,
John Coleman,
Nathaniel Wyer,
Eleazur Folger.

Coffin Party.

Thomas Mayhew,
Tristram Coffin,
Robert Pike,
Tristram Coffin, Jr.,
Richard Swaine,
Stephen Greenleaf,
Christopher Hussey,
James Coffin,
Nathaniel Starbuck,
John Swaine,
John Coffin,
John Bishop,
Nathaniel Barnard.

Peter Folger's son Eleazur had married Richard Gardner's daughter Sarah.

Edward Starbuck might have been expected to affiliate with Tristram Coffin, for his son Nathaniel married Mary the daughter of Tristram. It is not clear why Thomas Macy should associate with John Gardner rather than Coffin, but William Worth married his daughter Sarah; William Bunker his daughter Mary, and Joseph Gardner, son of Richard, his daughter Bethiah. His affiliation may be explained by the intermarriage of these families. At the same time this will not explain all associations for Peter Coffin married Edward Starbuck's daughter.

The others of the Gardner party being half-share men, might be expected to stand together. Macy and Starbuck alone owned an entire share of land.

Thomas Mayhew lived at Edgartown and was called "Governor," for he was appointed to that office for life. It is said that his motive in buying these islands was to Christianize the Indians. But this will hardly explain his actions. The fact probably is that primarily he wanted a place where he could rule and govern and establish a manor. He was a born aristocrat and hated anybody who advocated rule by the people. The only practical aristocracy was that connected with land ownership. Tristram Coffin held exactly the same view. Tristram, James and John Coffin were sons of Tristram, and Stephen Greenleaf married his daughter Elizabeth and Nathaniel Starbuck his daughter Mary.

Robert Pike never lived at Nantucket, but remained in Salisbury. Christopher Hussey lived and died in Hampton, N. H.

There seems to be no reason why the Swains should act with one party instead of the other.

John Bishop afterwards sold his land to Peter Coffin and moved to Woodbride, N. J. The Coffin party were all full share men.

Nathaniel Barnard inherited the two shares of land

owned by his father Robert and uncle Thomas and was the wealthiest man on the island when he died, his estate being valued at over £3000. He was likely to move with the aristocratic party. The wealth, tone and influence were with the Coffin faction. The others represented the poorer, working class, composed mostly of mechanics.

Before proceeding with the events of the controversy it will be well to examine the merits of the case. John Gardner thus states his argument.

Governor Lovelace ordered all persons at Nantucket in May, 1670, to appear before him within four months and exhibit the evidence of their title or else their claims to land should be thereafter void. The landowners at Nantucket received notice, but about a year afterward presented their evidence. No recognition was expressed by the Governor of the old deeds from Lord Stirling. But Lovelace issued a new patent dated June 21, 1671, to Coffin and Macy for a confirmation unto the inhabitants, freeholders and purchasers in their possession and enjoyment. April, 1673, the same Governor in some instructions given the inhabitants, stated "that all ancient and obsolete deeds, grants, writings or conveyances upon said island shall be esteemed of no force or validity, but the records of every one's claim or interest shall bear date from the first divulging of the patent granted to the inhabitants by authority of His Royoll Highness, and not before the date thereof."

Hence, argued Gardner, if all former deeds are void and in the patent of June, 1671, the grant is to all the inhabitants, it follows that all are equal in ownership. This argument would have been without foundation except for the instructions. Consequently it was vital to the contention of Captain Gardner that this provision in the instructions should be held valid. For if it were modified or explained his only ground was gone. His hope hung by a

slender thread. It was not possible that a confirmation grant could be made and two years later the Grantor declare the early deeds were void which the grant sought to confirm. Yet this was Gardner's argument, and he had the instructions as a basis if they were valid.

The Coffin party took the ground that the Lovelace patent was merely a confirmation of previous grants, which might have lacked some formal provision or were given by officials of doubtful authority. The former things were not void but confirmed. The Governor must certainly so decide when his attention was called to the situation. And the Governor did render this decision.

But before the decision was announced, the Gardner party being in control of the government had passed a number of votes that created great bitterness in the minds of the Coffin party.

On the question of the proper construction to be given to the Lovelace patent, Gardner was wrong. But a new question had arisen—"Was the island to be governed by a landowners' aristocracy, or by the people themselves?" Gardner's democratic views were clearly sound, and Coffin's adherence to the other theory demonstrates that he was in error. This question was of greater importance than the construction of the Lovelace deed.

It may seem strange that such a fierce quarrel should take place over the instruction of the Governor and that it should continue with such increasing vigor when the question was settled. The cause of disagreement must have had its origin further back. Whoever studies the strifes of these early settlers will probably reach the conclusion that the struggle was largely the same that has always existed. The landowner wanted to be the aristocrat and have the tradesmen his subjects.

When Coffin and his relatives attempted to found a landowners' aristocracy, a vigorous protest was offered by

Captain John Gardner. It was the old contest in which the few sought to rule the many. There could be only one outcome in such a controversy.

In the correspondence which Tristram Coffin carried on with the Governor either Thomas Mayhew or his grandson Matthew usually joined. In November, 1674, Mayhew and Coffin represented that the first purchasers feared a disturbance in the quiet and peaceable possession of Nantucket from those who were admitted among them as tradesmen, because the latter claimed an equal interest with the first purchasers, and disputed the right to vote on the shares of those who were living away from the island. Thus, Tristram Coffin had two sons not on the island and he claimed the right to vote on their shares. This the Gardners contested.

Andros gave an interpretation to the language of Lovelace as follows :

“As to that clause in the additional instructions and directions for the government of the Island of Nantucket, wherein it is said that all ancient and obsolete deeds, etc. shall be esteemed of no force or validity, but the records of every one’s claim or interest shall bear date from the first divulging of the patent, etc.

“It is to be understood that all that were at that time equally possessed of any land, houses, etc., in that island were confirmed in their said possession by their patent, but obliged to record their said titles to avoid all future litigious suits upon account of their uncertainty, the which (if not yet due) the Chief Magistrates are hereby required to enjoin the same according to the custom of a manner, as is granted them in their patent.”

At the same time, Nov. 7, 1674, Governor Andros gave an order as follows, which was intended to reduce the Gardner party to a condition of obedience :

“Whereas I have been given to understand that several disorders have happened to the Islands Martin’s Vineyard and Nantucket (or one of them) since the time of the Dutch coming into these parts in July, 1673, I have with the advice of my Council thought best to order and appoint that the Governor or Governors and assistants of both the islands aforementioned be hereby authorized and empowered to call to account and punish according to Law all such persons as have been ringleaders or capital offenders and transgressors against the established government under his Royal Highness, the crime not extending to life, limb or banishment. But in case of such high crimes which may deserve these punishments, to secure the offenders and send them hither prisoners by the first conveyance.”

Tristram Coffin sent the following to the Governor :

“The original right of Nantucket was obtained by Thomas Mayhew, and Thomas Mayhew his son, of James forrett, Agent to William Earl of Sterling, the 30th day of October, 1641, and granted by them to the ten first purchasers Feb. 5, 1659, and the right of the Indian sachems May 10, 1660, before which time the said Mayhew could not obtain any land of the sachems upon said island.

“ At a meeting of the owners and purchasers the first original proprietors of Nantucket, June 8, 1674,

“First : Forasmuch as there appeared several grounds of suspicion of an endeavor by some lately admitted to the Island and severally that formerly had been admitted, and stated thereby the aforesaid proprietors to supplant the said first proprietors of their rights by the defective recording and uncertain keeping of said records, and also by passing two several sorts of laws, the one against the other, and both overthrowing and taking away the former right ; and, whereas, we applied ourselves to the General Court of

said Island at the season thereof for their assistance by their advice or otherwise, as it should belong to their cognizance in the starting of our said manor or interest for the future. They returned us answer that they were not in capacity of a court to answer by reason that the magistrates of Nantucket were not there, namely : Thomas Macy, Mr. Richard and John Gardner, with whom we had several times endeavored to understand their reasons, and in an amicable way to compose the matter, but all in vain. And whereas there have been several alienations from the ten first purchasers unto others and also some of the associates and partners of the said ten purchasers are not named in the first records at Salisbury whereby it may appear who are now the owners of the said lands ; we the aforesaid purchasers, owners and freeholders of the said Island of Nantucket, have mutually agreed, voted and subscribed, being all present on the said Island, that an account shall presently be taken and recorded of those that are now the present owners of said land, whether of the ten first purchasers or of their ten associates and partners who are now on record called the twenty purchasers and owners, to whom the sole, proper and equal right doth belong of the said Island and appurtenances and of the order of all transactions that have passed for the conveyance of any of said rights until this time ; and also that the like order shall be observed from time to time for the recording of such alienations as shall be made for the future, that every man's right may be orderly known and distinguished for time to come by perpetual succession.

“Thomas Mayhew, Robert Pike, Tristram Coffin, Sr., the mark of Richard Swaine, Sr., Stephen Greenleaf, Stephen Hussey, James Coffin, Tristram Coffin, Jr., Nathaniel Starbuck, John Swaine, John Coffin, John Bishop, Nathaniel Barnard.

“Accordingly at the same meeting it did appear by the

perusing the original records of Salisbury of 1659 and 1661, that these ten persons, viz.: Thomas Mayhew, Tristram Coffin, Christopher Hussey, Richard Swaine, Thomas Barnard, Peter Coffin, Stephen Greenleaf, John Swaine, Thomas Macy and William Pile were the first ten to whom the said Island and appurtenances did belong solely.

“Secondly, That at the said meeting in the same records it did appear that Robert Pike was owned by Christopher Hussey to be his partner; Robert Barnard to be Thomas Barnard’s partner; Edward Starbuck to be Thomas Macy’s partner; Tristram Coffin, Jr., to be Stephen Greenleaf’s partner, and James Coffin to be Peter Coffin’s partner.

“It is further declared and owned that these are also associates of the rest of the ten purchasers, viz.: Thomas Coleman was partner to John Swaine, as by deed; Nathaniel Starbuck was partner to Tristram Coffin, Sr.; John Smith with Thomas Mayhew; Thomas Look partner with Richard Swain as by deed; the right of William Pile was sold to Richard Swaine, who conveyed the one half thereof to Nathaniel Boulter and the other half to his son-in-law and daughters-in-law, William Bunker, Mary Bunker, Ann and Martha Bunker, as by deed, 1667. Nathaniel Boulter sold his right to John Bishop, Sr.; Capt. Christopher Hussey sold his own part unto his sons Stephen Hussey and John Hussey. John Smith, deceased, left his right to his two sons John Smith and Samuel Smith, by equal division, Feb. 14, 1670. Tristram Coffin, Sr., has conveyed one-half of his own proper right unto his son Stephen Coffin; Thomas Barnard conveyed one-half of his proper right to his son Nathaniel Barnard; Thomas Coleman conveyed one-half of his right purchased from John Swaine unto his son John Coleman.

“It is to be taken notice that this list of twenty first pur-

chasers should have been inserted before these alienations were made, namely: Thomas Mayhew, Tristram Coffin, Sr., Richard Swaine, Christopher Hussey, Thomas Barnard, Nathaniel Starbuck, John Bishop, Sr., Peter Coffin, Stephen Greenleaf, John Swain, Thomas Macy, John Smith, Robert Pike, Robert Barnard, Edward Starbuck, Tristram Coffin, Jr., James Coffin, Thomas Coleman, Thomas Look, William, Mary, Ann and Martha Bunker in the one-half right of William Pile.

“These are the twenty first purchasers who are called the first purchasers and their associates to whom the right was sold by Mr. Mayhew and which also bought the Indian right and the alienations above said, and all other alienations whatsoever have been derived from them when it is general or one of them when it is particular.

“At the same meeting Tristram Coffin acknowledged the one-half of his right to be conveyed to his son, Stephen Coffin, as by deed bearing date May 29, 1674.

“It is also acknowledged at the said meeting that the Neck called Mascatuk upon Nantucket, which was by Mr. Thomas Mayhew reserved to himself when he sold the patent right of Nantucket to the twenty purchasers, is no part of the sale, but do remain to him the said Mayhew according to the right that he obtained of the Indians according as it does appear in the deeds that we had of said Mr. Mayhew bearing date Feb. 5, 1659.

“It does also appear by a writing in the manner of a mortgage under the hand of Thomas Macy unto Tristram Coffin of that part or so much of it belonging to Thomas Macy being his twentieth part, as will pay the said Tristram Coffin for such sums as the said Coffin was to pay for the said Macy as by the said writing may appear, bearing date July 27, 1660, but no further proceedings did then appear about it.”

Then complaint was made that the records were held without being open to the public, and Andros gave this order :

“Whereas I am informed that a search or view and copies of the Public Records are denied to the Inhabitants others concerned in Nantucket,

These are therefore in His Majesty’s name to require you forthwith to take order therein and that for future all persons may have a legal and free recourse thereunto as in others His Majesty’s colonies in paying reasonable fee for the same ; of which you are not to fail or you will answer the contrary at your uttermost peril.”

So each party proceeded to send communications to New York. The Coffin faction complaining that their rights were infringed by the half-share men, and then the other party while asserting the greatest loyalty to the government would claim that under the Lovelace patent they were justified. And the Gardners held the reins of government. In one letter Coffin and Mayhew wrote :

“But our interest and property is ordered and disposed of principally by said tradesmen and seamen who with some of the purchasers being the major part of said Island in persons though not in property have elected unto authority some of themselves whereby they have presumed to dispose of our purchase, dividing it among one another. Neither can we have any redress, they affirming that every card they play is an ace and every ace a trump and that we have no remedy in law.”

On Dec. 28, 1675, Stephen Hussey was fined for contempt of authority in saying to Capt. John Gardner “Meddle with your own business. I gave Edward Cartwright authority to let his hogs run on the common.”

As late as that date the Gardner party seem to be in the ascendant.

It is not clear with such a small majority why they proceeded with such confidence. They appeared to fear no change in the island politics. But the parties were too evenly balanced for either to expect uninterrupted control. A change of two from the Gardner party would give their opponents a working majority. This is exactly what took place.

During the next two months a singular change occurred. Thomas Macy and his son-in-law, William Worth, abandoned their party and joined the Coffin faction. The only documents dealing with this episode which took place in the early winter of 1676, are letters written by Peter Folger and John Gardner, and they offer no explanation. It seems that the commission of Thomas Macy had expired and he called the town together to learn if the town would stand by him in acting as Chief Magistrate although the time of his appointment had gone by. Evidently some of them agreed to uphold him in this usurpation of power, and the Coffin party gave him their support. For this reason he left the Gardner party. William Worth was a young man and would naturally follow the lead of Macy, particularly as they promised to make him Clerk of the Courts.

At the meeting held Feb. 13, 1676, the new order was instituted.

Thomas Macy and Peter Coffin had a grant of a fishing privilege, and they were appointed to examine the town book that had been recovered from Peter Folger to see if it had been altered.

Then William Worth was chosen Town Clerk and Clerk of the Court, and John Gardner and Peter Folger were forbidden to participate thereafter in any of the town's concerns.

So far the Coffin party did no more than their opponents. The latter removed all their enemies from office,

and now the same was visited upon them. But Tristram Coffin was in no mood to stop at this point. For over a year and a half he had been out of office and seen his chief enemy gaining in authority. Now he thirsted for revenge.

Peter Folger was arrested and put in jail Feb. 10, 1676, without being able to see the warrant ordering his arrest. He was sent to jail Feb. 19 because he could not furnish bail. The jail was a place "where never any Englishman was put."

Here he was confined for over a year and a half, although the keeper allowed him sometimes to visit his family.

At this time he was over sixty years old and had been an interpreter of the Indian language on these islands for thirty years.

At a court of adjournment held in Sherburne on Nantucket the 14th of April, 1676,

William Worth is chosen Recorder and Clarke of the Writs of this Court;

"Peter foulger inditted for contempt of his Majesty's authority in not appearing before the Court according to a summons served on hem and being apprehended by special warrant and being brought to court to answer for his contemptuous carriage and being demanded why he did so act gave no answer though the court waited on hem a while and urged hem to speak,

The sentence of the Court is to remit the cause to the Court of Assize at New York as the law directs, and to give 20 pounds bond for his appearance and to abide the order of the Court and to stand committed till the bond be given."

Whatever else may be said of the rule of John Gardner and his associates, it is a fact that they never imprisoned or

disfranchised their enemies. But when Thomas Macy became a pliant tool in the hands of Tristram Coffin, with congenial assistants, it was easy for Coffin to wreak his vengeance upon the members of the other party. Peter Folger was in jail, but more severe measures were necessary to satisfy his desire for revenge. Then began a series of court proceedings against John Gardner and his relatives and friends. In these events Coffin had fierce coadjutors in the Mayhews at Edgartown, who seem to have had a grudge against Captain Gardner. The following are copies from the court records :

Peter Folger's son Eleazur had married Sarah Gardner, the daughter of Richard ; they all expressed themselves with indignation at Peter Folger's imprisonment. Consequently they were all arrested.

"At a court held the 22nd of April, 1677,

"Mr. Richard Gardner, Eleazur Folger, and Sarah Gardner were summoned to appear at the Court to answer for their speaking in derogation of the sentence of the Court, but neither of them appeared."

At the next court they appeared, with the following result :

"Sarah, wife of Mr. Richard Gardner, being legally convicted of speaking very opprobriously and uttering many slanderous words concerning the imprisonment of Peter Folger who was imprisoned by order of the Court, upon her good demeaning herself and civilly being to the good satisfaction and likeness of the Court, the Court think fit to remit all other fines provided by law in such case, but she shall be reprov'd and admonish'd to have care for the future of evil words tending to defaming His Majesty's Court."

"Mr. Richard Gardner being legally convicted of non-appearance at Court, according to summons, the Court

perceiving that it was occasioned by his mistake, do acquit him."

There is no record of any dealing with Richard Gardner concerning the merits of his offence.

Tobias Coleman was a sympathizer of Peter Folger's and he was also arrested.

"Tobias Coleman, being legally convicted of speaking evil of authority and many vile and slanderous words oftentimes, is adjudged to pay fine of twenty-five shillings, and shall be bound to his good behaviour twelve months in a bond of five pounds, and to pay the fees of the Court."

"Eleazur Folger, being legally convicted of speaking to the defamation of the Court, acknowledging that he said, it was his judgment it was cruelty to put his father in prison," he is adjudged to pay fine of five pounds, or twenty shillings and a public acknowledgement to the satisfaction of this Court, the fine to be paid in money or equivalent."

There was another book called "The Small Book of Records," in which were probably kept records similar in character to those found in Book No. 2 in the Registry of Deeds. It is a fact that the earliest Court Records extant begin in July, 1672; there must have been court transactions before that time, and there are two or three indications in Book No. 1 that there were convictions in 1666. No book of that kind is now in existence. This book must have contained all the transactions before 1672 by the court, and possibly transactions of other sorts. Whether this book was ever recovered from Peter Folger cannot be known; there is certainly no record of it after the following:

June 6, 1677.

To the Marshall of Nantucket,

Greeting:

You are in His Majesty's name required to bring forth-

with Peter Folger before the Court to answer for his neglecting and upon his request refusing to attend the Court, for officiating his office therein.

THOMAS MAYHEW,
President.

“Before the Marshall went with the warrant the Court upon Peter Folger’s non-attendance at the Court according to his duty and place, sent the Marshall to request his appearance, and to bring the book and writing with him which relates to the Court. Said Folger returned this answer in writing :

“‘I do certainly know that I have been a prisoner since the fourteenth of February, last past, and do as certainly know the cause why I was put in prison.’

“Peter Folger being brought before the Court, refusing absolutely to bring the small book of records and writings relating to the Court, as appeared by his refusing to speak, by the Court instructed and urged thereto with telling him the great danger might insue for want of said records, it being the Court’s present concern to settle the spirits of the enraged heathen.

“Said Peter persisting in his stubbornness, the Court adjudged him to be committed close prisoner until further order.”

In the meantime matters were reaching a serious attitude. No man had as much influence with the Indians as John Gardner and Peter Folger. It was reported to them that Gardner and Folger were overthrown, the latter in jail and the former soon to be imprisoned, and tumult was in the air. They were also informed that if matters progressed this way with Gardner and Folger removed from all influence the Indians would soon be at the mercy of the whites. While King Philip had not been able to arouse them yet, the treatment of Folger and Gardner

incited them to rebellion. Coffin and his associates were filled with apprehension.

In this extremity the Coffin party seemed to consider that still further severity was necessary to compel obedience, not only of Gardner and Folger but of their sympathizers.

“At a Court held June, 1677,

“The Court having used all means for procuring of the book in the hands of Peter Folger, and finding there are none of the records for settling of Indian affairs, whereof they were in great measure stilled from their rage with the promise thereof, the Court told said Peter Folger that as they had the authority of the Court, and he seemed to question the same, if it was in that respect desired him to allege anything to detriment of the Court if he could object anything they could and would hear him, and the Court would give him bail and save him harmless. The said Peter remained obstinate.

“The Court have resolved and do order that a fine of five pounds be levied on the estate of Peter Folger, and that he remain close prisoner without bail, until he deliver the said book with writings relating to the Court officers, or cause the delivery thereof unto this Court or the authority of Nantucket, and do likewise disfranchise the said Peter Folger.

“The Court ordered that Peter Folger be brought before the Court. Having come the Court declared the present necessity they stand in of the book of records. He said he was willing to deliver it if he could according to his sentence; the Court signified to him that if at any time he would deliver it the Marshall should attend him, but he would give no other answer; he is again committed to prison.”

This condition did not suit Tristram Coffin. Folger

would not yield. Some further coercive measures must be put in operation, so Coffin ordered John Gardner's arrest for "burning a deed of sale." Possibly this was some original Mayhew or Indian deed.

"Complaint is made unto this Court by Mr. Tristram Coffin and John Swaine against Captain John Gardner for burning a deed of sale wherein the right of the English inhabitants upon the Island of Nantucket was contained. With words spoken to the disquieting of the English inhabitants, His Majesty's good subjects there, if not their subversion, as likewise his Royal Highness' interests in settling the plantation.

"Bailed 50 Pounds.

"Whereas the Court taking into consideration how they might better maintain His Majesty's authority in this Court, especially with relation to the heathen among whom it was vaguely rumored that there was no government on Nantucket, and having good cause to suspect the same to proceed originally from some English instigating them, or by their practice encouraging them in the same, to the great damage of causing insurrection.

"This Court respecting the same saw good to send for Capt. John Gardner, who at the Quarter Court refused to appear, being summoned, and had refused to assist the constable upon his command in the execution of his office to make his appearance to answer to the same.

"In pursuance whereof this Court, sending the Marshall twice for him with a warrant, refused to come, the Marshall afterwards fetching him by force.

"When he came to the Court demeaned himself most irreverently, sitting down with his hat on, taking no notice of the Court; behaving himself so both in words and gesture as declared his great contempt of authority of this Court, tending to the dishonor of His Majesty's authority

and the encouragement of others, and especially the the heathen who being before by some evil spirit persuaded that there was no authority, were hardly persuaded from using violence; the composing whereof was the principal cause of this Court's present sitting.

"The Court hath therefore thought good for the upholding and maintaining the peace and tranquillity of this place, which is so greatly endangered by a precedent of such note and at such a time and by such a practice, to discountenance such practices and deterring others from the like have resolved and do therefore order; that Captain John Gardner shall pay a fine of ten pounds in money or something equivalent thereunto into the treasury, and is disfranchised.

"Capt. John Gardner being legally convicted of speaking words tending to contempt of authority ordered that he receive a sharp admonition."

June 6, 1677, the Marshall saith he served his warrant on Capt. Gardner, whose answer was, 'That he did not disown the King's authority but I will not act.'

Another warrant was issued to apprehend Capt. Gardner, and placed in the hands of William Bunker, Marshall. Having fined and disfranchised Capt. Gardner, they next ordered him to be arrested, and the testimony is recorded and the record is as follows:

June 17, 1677.

To the Marshall of Nantucket,

Greeting:

Whereas the Court have good cause to suspect Capt. John Gardner to have an especial hand in obstructing the proceedings of this Court by joining himself to Peter Folger in keeping back, with-holding and concealing the public records and writings relating to this Court, as also for giving out threatening speeches or words with tendency to the Court, or some member thereof, on Monday last, being the sixth of this instant June.

You are therefore in His Majesty's name forthwith to appear with Capt. John Gardner and him bring before the Court to make answer to the premises and take sufficient assistance with you as you see need and occasion, and if need require you may draw latch, break open doors, and all things else remove that may obstruct your lawful proceedings herein.

MATTHEW MAYHEW,
Secretary.

TESTIMONY.

The deposition of Thomas Look, aged about 31 years.

That yesterday the Constable, treating with Capt. John Gardner about the Court book and papers, and telling him that it may be he could help him to them, for he was going to look for them. This deponent remembereth not said Captain's answer, but as soon as the Constable was gone Capt. Gardner saith: "I know what they would have, but they shall not have it if I can help it, till it comes to New York; they shall be seen there first." And further saith not.

Attested in Court June 7, 1677.

Deposition of Thomas West, aged 31 years:

That the Constable coming to Capt. Gardner's asked him for the court book and those writings that belonged to it, and Capt. Gardner said to me "They are resolved to have those things which we are resolved they shall not have before they come to New York, if we can, but let them take their course."

Attested June 7, 1677.

Testimony of Tristram Coffin, aged 67 years:

That on the 6th day of June, 1677, the General Court being sit in the town of Sherburne, and Capt. John Gardner being brought into court, and sot down on a chest

where I sat, there being of the members of the Court that spake to him concerning his contemptuous carriages in regard of the King's authority then and there present, and he accused and brought as a delinquent.

I spake to him and told him that I was very sorry that he did behave himself. The aforesaid Capt. John Gardner replied and said :

"I know my business and it may be that some of those that have meddled with me had better have eaten fier."

Witness my hand to the verity of this,

TRISTRAM COFFIN.

"At a legal meeting in the Town of Sherburne, April 15, 1677, Mr. Thomas Macy chosen Moderator and the laws now enacted by the General Court were published."

"At a legal town meeting the 20th of the 4th month, 1677,

"Voted by the town that Mr. Peter Coffin is chosen and desired to go to the Vineyard, and the town doth empower him to agree with Mr. Matthew Mayhew to go to New York about the Town's concerns, and if he see cause he may go himself, or to act any other way according to his discretion for the sending there, according to the instructions given, and the town doth engage to satisfy Mr. Coffin and own his proceedings.

"Voted by the town that Mr. Coffin, Mr. Macy, Stephen Hussey and William Worth are chosen to draw up instructions for him or them that go to New York."

This was intended to meet the effect of letters that had just before been sent by Folger and Gardner.

When the constable called to collect the fine Capt. John refused to pay it and the official took "a haluef a barrel of Rom," and would not furnish the Captain with a copy of the warrant. At another time the constable took eight cattle

and a fat sheep. But being disfranchised exceeded the Captain's patience, and he appealed to the Colonial Governor Andros, and alleged that the court which disfranchised and fined him was not a legal tribunal.

1. Thomas Macy, Chief Magistrate had been without a commission since October, 1676.

2. Nathaniel Barnard was not chosen an assistant by a majority of vote.

3. And Peter Coffin was an inhabitant and officer in the Massachusetts Bay Colony.

In due time the decision of the Governor came and was based on the ground that the court had exceeded its power.

By the Governor.

“Whereas I did by advice of my council the third of August last suspend any further proceedings against Capt. John Gardner complained of by the Constable and Mr. Tristram Coffin, Senior, and till further order, which the year being so far spent is not like to be till next summer, this is further by advice of my council to signify an order any or all proceedings in said matters for his disfranchisement or fine upon said account void and non, as being illegal beyond your authority and only peculiar to if in the power of the highest judicature in these parts, and if Peter Foulger's case which is by you admitted to the Court of Assize come not afore next Court I do order the remitting the proceedings of both causes to the Governor and and Council by the first good convenience for further order therein; binding the parties over to answer when called. And if in the meantime they or any of them should wise behave themselves may further proceed against them according to law.

Given under my hand and seal in New York this 20th of September, 1677.

E. ANDROS.

To the Magistrate of the Particular and
General Court at Nantucket.

This is to signify that Capt. John Gardner's fine and disfranchisement is void and null according to the Governor's order and Peter foulger's also."

It is said that the Anglo-Saxons, more than any other race, have respect for the law either statutory or by Court decision. It follows that the man who proves that he has the law on his side is likely to gain respect.

This decision had two results. It made the prime movers of the persecution, Mayhew and Tristram Coffin, more bitter and determined. For nearly two years they had ruled with an iron hand. Now to see their authority snatched from their grasp by one stroke of the pen was more than they could endure. They declared in a great passion that they would make his fine and disfranchisement valid; that they were resolved to show that the Court of Assize was above the Governor and that his decision would not stand, that they should disregard the decision. Then they sent the constable and took two of Captain Gardner's cattle.

But before the people Capt. John Gardner had won a signal victory.

As soon as the Governor's decision was announced it restored him to the favor of the people notwithstanding the efforts of Tristram Coffin to the contrary.

In Dec., 1677, Capt. John Gardner was selected for certain town business. Then the town apologized for what had been done two years before.

"At a meeting of the town the 6th day of Jan. 1678, voted, that whereas Capt. Gardner and Peter foulger were by an order of the town bearing date 1st mo., 16, 1676, prohibiting them to act in the public concerns of the Island at New York or elsewhere either by word or writing, this

is to manifest and declare that the intent of the town in that order was not to seclude either the persons aforementioned or any other from town meetings nor to act therein as townsmen, and this hath appeared ever since in that they have been warned to town meetings as other men, and this is further to declare that if any sentence or clause in the said order may be strained by interpreters to such a sense, namely, to seclude or prohibit them or either, from coming to town meetings or to act therein as townsmen, contrary to the intent of the town tis hereby made utterly void and null."

The next year the town continued to show their confidence in the Gardners.

"At a legal meeting the 9th of January 1679,

"Voted by the town that if any man here legally chosen to be an assistant and refuses to serve in that place he shall pay three pounds in money, or equivalent, to be improved for public use of the town.

"William Worth was chosen to be an assistant, having seventeen votes.

"Capt. Gardner was chosen to be an assistant, having fourteen votes.

"William Gayer was chosen to be an assistant, having sixteen votes.

"To the choosing of Captain Gardner Mr. Coffin dissenteth.

"At a Court held at Nantucket February 29th, 1679,

"On the complaint of Tristram Coffin, Chief Magistrate on Nantucket, ordered :

"That whereas they have received information against the Town of Sherburne for electing Capt. John Gardner for an assistant in government, that a warrant be issued forth to call the town to answer for their contempt of authority therein ; he being under sentence of court rendered incapable of such office of trust."

But a change had now taken place in favor of Captain Gardner. On account of bad management of a vessel which was wrecked at the east end of Nantucket, more through his carelessness than avarice, Tristram Coffin and his family had lost esteem in the community. No matter how much the old man might protest, the ability and honesty of John Gardner were realized, and he was made agent of the Governor and appointed Chief Magistrate.

“First Month, 30, 1680.

“Capt. John Gardner had been appointed an assistant magistrate for the year and presented his acceptance called an ‘engagement’ signed by him. As soon as presented objection was made as follows:—

“Mr. Tristram Coffin, chief Magistrate on Nantuckett, doe declare against the entry of Capt. John Gardner’s engagement as giving him power to sit as an assistant, he being under disfranchisement by the General Court’s account.

“At a legal meeting the 25th day of June, 1680, Mr. Richard Gardner was chosen that his name might be sent to the Governor, and Capt. John Gardner at the same time was chosen that his name might be sent also to know his pleasure as to choice respecting a chief magistrate for the year ensuing.

“Tristram Coffin enters his decent against the choosing of Capt. John Gardner.”

Nov. 10, 1680, Capt. John Gardner was appointed Chief Magistrate, the highest office that a Nantucketer could hold.

“At a town meeting, the 20th of August, 1680,

“Voted by the town that they would send a man to the Governor; the town did choose Capt. John Gardner to go to the Governor to answer him in the Town’s behalf, as also

to do other things respecting a defect laid to our charge, as also to treat with His Honor according to further instructions given him.

INSTRUCTIONS FOR CAPT. GARDNER.

“Imprimis:

We desire our trusty friend, Capt. Gardner, to go to New-York and to answer in our behalf unto our Honored Governor respecting a defect which is amongst us in not sending returns according to order.

“We desire him to petition His Excellency to grant us the privilege that at the time of the General Court, being at our island, that our Chief Magistrate may preside and have a casting vote, we having by long experience felt and seen the inconveniences of the contrary.

“We earnestly desire our friend in our behalf to petition His Honor’s assistance against any that shall anyway, by way of molestation or alteration, infringe the liberty of our shares, and whatsoever our trusty friend shall judge to be good for our plantation to desire His Honor’s favor in it.

“The town did choose Mr. Richard Gardner, Mr. James Coffin, Mr. William Gayer and Mr. William Worth to treat with Capt. Gardner about his going to New York, and to agree with him.”

The confidence of the town had become established in Peter Folger and Capt. John Gardner; one other matter remained to be adjusted; these men had been unjustly fined and deprived of their property; this was ordered returned to them as follows:

“At a Council held in New York on the 10th day of October, 1680, upon the petition of Capt. John Gardner of the Island of Nantucket setting forth that at a general court holden on the said Island the fifth of June, 1677,

he was fined 10 pounds and disfranchised also as by the records appear, and not judging himself to deserve such censure, on his application to His Honor the Governor and Council the 3rd of August following obtained an order to suspend all further proceedings thereon till further order, but before said order came to hand execution for the fine was levied and after receipt of the order the disfranchisement maintained, and on further application the 21st of September, 1677, obtained another order in Council which declared the said sentence void and null, and be bound to answer in said matter before the Governor and Council or Court of Assize as by said order notwithstanding, which the fine and disfranchisement was maintained. And no complaint or prosecution made and prayed to be discharged and acquitted of said fine disfranchisement or further attendance. Mr. Matthew Mayhew and Mr. Richard Sasson, two of the members of said Court, deputed from thence, present.

“The proceedings of said Court were read, and they fully heard or they could allege on that behalf. The said proceedings and judgment appearing to be extra judicial and no prosecution in the Superior Court, ordered, and the said judgment of Court against Capt. John Gardner of Nantucket is hereby declared void and null, and he restored to his full freedom and liberty as if no such judgment or sentence had been given, and if anything hath been taken from him by virtue thereof to be restored him again or full satisfaction made by such as have taken and enjoyed the same, which the present magistrates are forthwith to see performed.
E. ANDROSS.”

“At a council held the 25th of November, 1680:

“By order of the Court.

“Peter Coffin; You are forthwith to deliver unto Peter Folger that beast which was killed at Poatpes, there to deliver it to him, it being the beast that was formerly

taken from him for a fine. You having liberty to way the quarters, hide and tallow, and to take a receipt accordingly."

It was in June, 1680, that Tristram Coffin dissented for the last time. The reason is as follows :

The wreck of a French ship loaded with hides took place at the east end of Nantucket September, 1678; Tristram Coffin, as Chief Magistrate, took charge of the wreck and his agent sold the property. The proceeds amounted to £477. Coffin made no report of the case, and Governor Andross sent Commissioners to Nantucket to investigate. After allowing Coffin for charges they ordered that he should pay the Governor £343 and they decided that he had acted contrary to law. Coffin applied to the Governor for an abatement on the ground that he had not gained anything from the proceeds, but had paid out most in expenses. The Governor finally reduced the claim to £150.

In this affair John Gardner, who was agent of the Governor, greatly befriended Coffin, and it was through his influence that the abatement was allowed. Coffin's son James probably paid the demand. John Gardner received the money for the Governor December 4, 1680.

Tristram Coffin died in October, 1681, and within the next decade Richard Gardner, Thomas Macy, Peter Folger and Thomas Mayhew had passed away.

Thus ended the Nantucket Insurrection. In 1686 a few rods east of the homestead of Richard Gardner was built a house, for those days pretentious and elegant. In the chimney was a device in later days called a horse shoe. Tradition says the land was donated by Capt. John Gardner, and the house built from lumber sawed in the mill of Peter Coffin. In this house lived Jethro Coffin, grandson of Tristram, the great dissenter, and his wife Mary, the daughter of Capt. John Gardner.

CHAPTER III.

The Nantucket Group and Their Early Names.

This group comprises Nantucket, whose area is about 30,000 acres; Tuckannuck, 1260, and Muskeget, 300 acres; together with some small islets between the two latter called Gravelly Islands.

The longest line east and west that can be drawn on Nantucket is twelve miles, from Madaket to Siasconset; and the longest north and south is six miles, from Tom Nevers Head to Wauwinet. The outline of the island is very irregular, its coast line being eighty-eight miles in length. The highest point is ninety-one feet above the sea level, and is located in Sauls Hills. There are over twenty fresh water ponds, of which the following exceed twenty acres in area :

Hummuck, called Waquittaquay by Indians, . . .	320
Sachacha, called Sesagasha by Indians, . . .	310
Long,	215
Myacommet,	45
Gibbs,	31
Capaum [once a harbor],	23

The name "Nantucket" appears for the first time in 1641 in the deed from Forrett to Mayhew. It is spelled differently before and since. On the map of De Laet, 1630, it is spelled "Natocks." Tuckannuck is given Pentockynock and Muskeget as Kotget. On a French map in 1650 is given "Isle de Nantockyte." On Janssen's map, published

in 1644 in Amsterdam, the names are spelled the same as by De Laet. On the map of Lamb Fengr, 1665, is given "Nantock" and the other names as given by Janssen. On a map published in New Amsterdam in 1673, while the same names of the small islands are retained, the larger island is named "Vlielant-at-Natocke." It is clear that these maps were based on that of 1630. In 1697 Cotton Mather gave the name Nantoket. Since which time it has remained without change as conveyed to Mayhew.

Tuckannuck and Adjacent Islands.

In the deed of Nantucket to Mayhew are named "the two small islands adjacent." But there can be no doubt that Gravelly Islands were intended to be included.

Tuckannuck comprises about 1260 acres, and was conveyed by Mayhew October 10, 1659, to Tristram Coffin, Peter Coffin, Tristram Coffin, Jr., and James Coffin for the sum of £6. This title was confirmed by the patent from Lovelace June 29, 1671, in which the island is called Tuckanucket. The Indian Sachem of Tuckannuck was Pottacohannett and he had a reputed son called Lame Joseph, from whom a deed was obtained of his interest in Tuckannuck by giving him twenty acres on the Island of Nantucket. This Sachem had two other sons, Jacob and Ackewong, from whom a deed was procured covering their interest in Tuckannuck, March 6, 1681, for forty acres of land on Nantucket and £5 in money.

When counties in Massachusetts were first established the single Island of Nantucket constituted Nantucket County, while all the other islands south of Cape Cod were included in Dukes County. It would have seemed to be more natural to include Muskeget and Tuckannuck with Nantucket.

In 1713 Tuckanucket was transferred to Nantucket County and was called Tuckanug.

In 1678 Tristram Coffin conveyed to each of his grandchildren, nearly seventy in number, ten acres of land on Tuckannuck. It will be seen that his quarter interest of the island was not sufficient. For over a century this island was held in common largely by the Coffin descendants. In 1780 the owners of the island were ascertained for purposes of partition. They estimated the island at an area of 1257 acres and they considered each acre one common or share. The following were then the owners and their shares. The fractions of shares are omitted.

John Coffin,	132	shares.
Hope Barnard,	24	"
Joseph Coffin,	33	"
Cromwell Coffin,	23	"
Love Coffin,	26	"
Benjamin Coffin, 3d,	36	"
Dinah Folger,	36	"
Josiah Coffin,	104	"
Hepsah Barnard,	12	"
Nathan Macy,	52	"
Peter Coffin,	26	"
Hepsabeth Coffin,	2	"
Daniel Coffin,	60	"
Robert Coffin,	23	"
James Coffin, }	38	"
Benjamin Coffin, }		
Grafton Gardner,	13	"
Judith Gardner,	15	"
Zacheus Macy,	103	"
Caleb Macy,	33	"
Peter Coffin,	156	"
Jacob Alley,	103	"
Paul Gardner,	6	"
Caleb Bunker heirs,	24	"
John Coffin, "	16	"
Josiah Barker, "	43	"
P. Coleman, "	6	"
Mary Gardner, "	6	"
Abigail Fitch, "	7	"
Peter Jenkins, "	2	"
Uriah Gardner, "	2	"
Hepsey Hathaway, "	6	"
Mary Thurston, "	13	"
Jethro Starbuck, "	6	"
Richard Coffin, "	46	"

A partition was obtained according to a plan that was duly recorded. In 1822 the owners had become much changed and a new division of the island was desired. James Norton had purchased nearly one third. The owners at that time were :

Ebenezer Coffin,
 James Barker,
 Benjamin Gardner,
 Thomas Brock,
 Robert Coffin,
 John Cartwright,
 Joseph Fisher,
 Richard Mitchell,
 Daniel Bunham,
 William Brooks,
 Abel Coffin,
 Daniel Barney,
 Ebenezer Dunham,
 Tristram Jenkins,
 Samuel Dunham,
 Daniel Allen,
 Robert King,
 Andrew Brock,
 James Norton.

This island has always been used for sheep grazing. In 1891 there were thirteen owners, of whom John B. Brooks, William S. Bigelow, George B. Coffin, James G. Smith and the Dunhams owned all but three acres.

Gravelly Islands.

On some of the old maps two are delineated, and on others three. On Dr. Ewer's map, published 1869, there are marked two islands, and near by are several very small islets that are scarcely more than shoals. The first mention of these islands was in 1771, when Dr. Samuel Gelston, a physician residing in Nantucket, introduced a novel cure for small pox, by which it was claimed that men could secure immunity from the dread disease when travelling in other countries where it prevailed. It was by inoculation, which was a process by which the patient was infected with the disease at some locality remote from any settlement and there treated in a hospital until recovery. Dr. Gelston selected Gravelly Islands for the purpose and there erected his hospital. This method of treatment met with positive and vigorous opposition from the Quakers, and by their influence in 1778 the town arranged with Dr. Gelston to purchase his hospital buildings for £1000. It is said they were then destroyed, being the only buildings ever erected on these islands.

In the only deed covering this section, dated June, 1838, William Mayhew conveyed his interest as heir of the first purchaser to a relative named Thomas Mayhew. These islands belonged to the descendants of the first Thomas Mayhew.

Muskeget.

This island is the westernmost of the Nantucket group. It has no value except for fishing and hunting. Its title is very obscure because of the error in the record of deeds. Until 1887 this island belonged to Dukes County, and consequently the proper registry was in Edgartown. But many of the deeds were recorded in Nantucket. This

probably made them invalid. Like Tuckannuck, this Island was first conveyed to Tristram Coffin and certain members of his family. Only a few transfers by deed can be found, and the only known interests in 1895 aggregated only one undivided seventh of the island.

The William Mayhew above mentioned, July 1, 1839, conveyed his interest as an heir of the original Thomas Mayhew to the same person to whom he sold his interest in Gravelly Islands. No claim was ever made under either of these deeds.

Muskeget was resorted to for fishing and hunting by sportsmen as though it was public property until in the 80's the Muskeget Club was incorporated. Having purchased all ascertainable interests, a club house was built on the east end of the island. This act was resented by persons who had always had free use of the island. They interpreted the methods and proceedings of the club as being undertaken with a purpose to acquire exclusive control of the island and prevent its use by any persons except club members. An application was consequently made to the Legislature that so much of Muskeget as was not held by individuals that could be known and ascertained should be set off and held as a public park. Such an act was passed in 1895. Under this act, Nov. 25, 1895, the Selectmen of Nantucket divided the island by a north and south line beginning at Jenkins Point, so called, and took possession of the section west of this line and laid out the same as a public park or reservation, which is used by the public and on which is maintained the life saving station. The Muskeget Club controls the section east of said line. Except as above mentioned the only buildings on Muskeget have been small houses used in hunting and fishing.

1513



